

1 WENDY W. HUANG, ESQ. (SBN 164729)

2 6940 Beach Blvd., D-605

3 Buena Park, California 90621

4 Telephone: (714) 521-8858

5 Facsimile: (714) 521-4256

6 Email: awilliamson@mdproperties.com

7 Attorneys for Defendant

8 PLAMEX INVESTMENT, LLC, a Delaware limited liability company

9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA**

11 CARMEN JOHN PERRI,

12 Plaintiff,

13 vs.

14 CHINA BUFFET, a business of
15 unknown form; PLAMEX
16 INVESTMENT, LLC, a Delaware
17 limited liability company; and DOES 1
18 through 10, inclusive,

19 Defendants.

Case No.: 2:18-cv-09249-JAK (SKx)

[Assigned to Honorable Judge John A.
Kronstadt]

**DEFENDANT PLAMEX
INVESTMENT, LLC'S ANSWER
TO PLAINTIFF'S COMPLAINT**

Complaint Filed: 10/30/18

20 Defendants PLAMEX INVESTMENT, LLC ("DEFEDANT") now answer
21 the Complaint for Damages AND Injunctive Relief for Violations Of: American's
22 With Disabilities Act; Unruh Civil Rights Act filed by Plaintiff Carmen John Perri
23 (hereinafter "Plaintiff") in Case Number 2:18-cv-09249-JAK (SKx) and deny any
24 and all such allegations, and further admit or deny the specific allegations of the
25 Complaint ("Complaint") and states all applicable affirmative defenses, as follows:

PARTIES

1 1. Answering Paragraph 1 of the Complaint, DEFENDANT denies
2 knowledge or information sufficient to admit or deny the allegations within this
3 paragraph.

4 2. Answering Paragraph 2 of the Complaint, DEFENDANT denies
5 knowledge or information sufficient to admit or deny the allegations within this
6 paragraph.

7 3. Answering Paragraph 3 of the Complaint, DEFENDANT admits the
8 allegations in this paragraph.

9 4. Answering Paragraph 4 of the Complaint, DEFENDANTS admit the
10 allegations in this paragraph.

11 5. Answering Paragraph 5 of the Complaint, DEFENDANT denies
12 knowledge or information sufficient to admit or deny the allegations within this
13 paragraph.

14 6. Answering Paragraph 6 of the Complaint, DEFENDANT denies
15 knowledge or information sufficient to admit or deny the allegations within this
16 paragraph.

17 7. Answering Paragraph 7 of the Complaint, DEFENDANT denies
18 knowledge or information sufficient to admit or deny the allegations within this
19 paragraph.

20 8. Answering Paragraph 8 of the Complaint, DEFENDANT denies
21 knowledge or information sufficient to admit or deny the allegations within this
22 paragraph.

23 9. Answering Paragraph 9 of the Complaint, DEFENDANT denies
24 knowledge or information sufficient to admit or deny the allegations within this
25 paragraph.

1 10. Answering Paragraph 10 of the Complaint, DEFENDANT denies
2 knowledge or information sufficient to admit or deny the allegations within this
3 paragraph.

4 11. Answering Paragraph 11 of the Complaint, DEFENDANT denies
5 knowledge or information sufficient to admit or deny the allegations within this
6 paragraph.

7 12. Answering Paragraph 12 of the Complaint, DEFENDANT denies
8 knowledge or information sufficient to admit or deny the allegations within this
9 paragraph.

10 13. Answering Paragraph 13 of the Complaint, DEFENDANT denies the
11 allegations in this paragraph.

12 14. Answering Paragraph 14 of the Complaint, DEFENDANT denies the
13 allegations in this paragraph.

14 15. Answering Paragraph 15 of the Complaint, DEFENDANT denies the
15 allegations in this paragraph.

16 16. Answering Paragraph 16 of the Complaint, DEFENDANT denies the
17 allegations in this paragraph.

18 17. Answering Paragraph 17 of the Complaint, DEFENDANT denies the
19 allegations in this paragraph.

20 18. Answering Paragraph 18 of the Complaint, DEFENDANT denies the
21 allegations in this paragraph.

22 19. Answering Paragraph 19 of the Complaint, DEFENDANT denies the
23 allegations in this paragraph.

24 20. Answering Paragraph 20 of the Complaint, DEFENDANT denies the
25 allegations in this paragraph.

26 21. Answering Paragraph 21 of the Complaint, DEFENDANT denies the
27 allegations in this paragraph.

28

1 22. Answering Paragraph 22 of the Complaint, DEFENDANT denies the
2 allegations in this paragraph.

3 23. Answering Paragraph 23 of the Complaint, DEFENDANT denies the
4 allegations in this paragraph.

5 24. Answering Paragraph 24 of the Complaint, DEFENDANT denies the
6 allegations in this paragraph.

7 25. Answering Paragraph 25 of the Complaint, DEFENDANT denies the
8 allegations in this paragraph.

9 26. Answering Paragraph 26 of the Complaint, DEFENDANT denies the
10 allegations in this paragraph.

11 27. Answering Paragraph 27 of the Complaint, DEFENDANT denies the
12 allegations in this paragraph.

13
14 **FIRST CLAIM**

15 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF**
16 **1990, 42 U.S.C Section 12181 et seq.**

17 28. Answering Paragraph 28 of the Complaint, DEFENDANT incorporates and
18 re-allege its specific answers to all preceding paragraphs as if set forth within.

19 29. Answering Paragraph 29 of the Complaint, DEFENDANT denies the
20 allegations in this paragraph. This paragraph sets forth legal conclusions and
21 questions of law to which no response is required.

22 30. Answering Paragraph 30 of the Complaint, DEFENDANT denies the
23 allegations in this paragraph. This paragraph sets forth legal conclusions and
24 questions of law to which no response is required.

25 31. Answering Paragraph 31 of the Complaint, DEFENDANT denies the
26 allegations in this paragraph. This paragraph sets forth legal conclusions and
27 questions of law to which no response is required.
28

1 32. Answering Paragraph 32 of the Complaint, DEFENDANT denies the
2 allegations in this paragraph.

3 33. Answering Paragraph 33 of the Complaint, DEFENDANT denies the
4 allegations in this paragraph.

5 **SECOND CLAIM**

6 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT, CALIFORNIA**

7 **CIVIL CODE Section 51 et seq.**

8 34. Answering Paragraph 34 of the Complaint, DEFENDANT incorporates and
9 re-allege its specific answers to all preceding paragraphs as if set forth within.

10 35. Answering Paragraph 35 of the Complaint, DEFENDANT denies the
11 allegations in this paragraph.

12 36. Answering Paragraph 36 of the Complaint, DEFENDANT denies the
13 allegations in this paragraph.

14 37. Answering Paragraph 37 of the Complaint, DEFENDANT denies the
15 allegations in this paragraph.

16 **PRAYER FOR RELIEF**

17 38. Answering Paragraphs 1, 2, 3 and 4 in this section, DEFENDANT denies that
18 PLAINTIFF is entitled to any of the relief requested.

19 **AFFIRMATIVE DEFENSES**

20 DEFENDANT alleges the following affirmative defenses to the Complaint. In
21 asserting these affirmative defenses, DEFENDANT does not assume the burden to
22 establish any fact or proposition where that burden is properly imposed on
23 PLAINTIFF:

- 24 1. The Complaint fails to state facts sufficient to constitute a cause of action
25 against these answering DEFENDANT;
- 26 2. PLAINTIFF has failed to state a claim upon which relief may be granted;
- 27 3. PLAINTIFF has failed to mitigate his own damages;
- 28

- 1 4. PLAINTIFFS is estopped by his own conduct to assert the allegations in the
- 2 Complaint;
- 3 5. The PLAINTIFF's claims are barred by laches;
- 4 6. PLAINTIFF has suffered no damages as a result of the acts complained of;
- 5 7. If any damages were sustained by PLAINTIFF, which DEFENDANT denies,
- 6 said damages were proximately caused by the negligence of PLAINTIFF
- 7 and/or third parties other than DEFENDANT and the liability of all
- 8 responsible parties, named or unnamed, should be apportioned according to
- 9 their relative degrees of fault, and the liability of DEFENDANT, if any,
- 10 should be reduced accordingly and apportioned pursuant to California Civil
- 11 Code sections 1431 through 1437;
- 12 8. PLAINTIFF does not have a case or controversy as required by federal law.
- 13 9. If the DEFENDANT's alleged conduct is found to have been wrongful, which
- 14 DEFENDANTS deny and continues to deny, then PLAINTIFF's claims are
- 15 barred by the doctrine of unclean hands;
- 16 10. DEFENDANT acted in good faith and did not directly or indirectly perform
- 17 any acts whatsoever which would constitute a violation of any rights
- 18 possessed by PLAINTIFF, or any duty owed to PLAINTIFF;
- 19 11. None of the alleged acts or omissions of DEFENDANT were a substantial
- 20 factor in bringing about the alleged damages and losses alleged by
- 21 PLAINTIFF and, therefore, were not a contributing cause, but instead, were
- 22 superseded by the acts and/or omissions of PLAINTIFF and others which
- 23 were independent, intervening, and proximate causes of the damages and
- 24 losses alleged by PLAINTIFF;
- 25 12. PLAINTIFF's action against DEFENDANTS is barred by the fact that they
- 26 did not deliberately and intentionally violate PLAINTIFF's rights and was not
- 27 deliberately indifferent;
- 28

1 13.DEFENDANT alleges that it is immune from liability because their acts, if
2 any, were performed in good faith and without malice;

3 14.That the PLAINTIFF's Complaint is not brought in good faith and with
4 reasonable cause and is frivolous in nature, thereby entitling these answering
5 DEFENDANTS to all reasonable expenses incurred in the defense of this
6 action, including attorney's fees and costs, from both the PLAINTIFFS and
7 PLAINTIFF's counsel, pursuant to Code of Civil Procedure sections 128.5
8 and 1038;

9 15.DEFENDANT presently has insufficient knowledge or information on which
10 to form a belief as to whether it may have additional, as yet unstated defenses
11 available. DEFENDANT reserves the right to assert additional defenses that
12 are revealed by further investigation or discovery.

13
14 **DEFENDANTS' PRAYER FOR RELIEF**

15 WHEREFORE, DEFENDANT prays for judgment or relief against PLAINTIFF
16 as follows:

- 17 1. That the claims against DEFENDANT be dismissed, with prejudice, and
18 that the PLAINTIFF take nothing;
19 2. That DEFENDANT be awarded its attorney's fees, costs, and
20 disbursements incurred in defending this matter; and
21 3. For such other and further relief, including declaratory, equitable relief,
22 and damages, as this Court deems just and proper.

23
24 **DEFENDANTS' DEMAND FOR JURY TRIAL**

25 Defendant PLAMEX INVESTMENT, LLC hereby demand a trial by jury
26 pursuant to Federal Rules of Civil Procedure, Rule 38, and Central District of
27 California Local Rules, Rule 38-1.
28

1
2 Dated: November 21, 2018

3 By: /s/ Wendyw. Huang
4 Wendy W. Huang, Esq.
5 Attorney for PLAMEX INVESTMENT,
6 LLC
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

